



IFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : **Confirmation No. 9008**
Shigeru HIRAMOTO et al. : Attorney Docket No. 2004_1149A
Serial No. 10/501,892 : Group Art Unit 1655
Filed July 20, 2004 : Examiner S. McCormick Ewoldt

HELICOBACTER PYLORI
ADHESION INHIBITOR

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Election of Species Requirement dated January 12, 2006, Applicants hereby elect as follows:

With regard to election of a specific protein species, Applicants hereby elect "animal proteins derived from milk".

With regard to election of a specific sugar species, Applicants hereby elect "lactose".

All claims are readable on the elected species.

The foregoing election is made with traverse.

In support of the restriction requirement, the Official Action cites AGA et al. (U.S. 2002/0068094) which is said to disclose the use of saccharides and proteins to inhibit the growth of *Helicobacter pylori*. However, AGA et al. merely discloses an extract comprising an ethyl acetate-soluble ingredient of an indigo plant. There is no description about sugars.

The extract might comprise sugar and protein, but the characteristic feature of claim 1 of the present application is "a product of browning reaction of sugar and protein".

AGA et al. discloses nothing about the browning of sugar and protein. The browning reaction is carried out by mixing sugars and proteins and heating the mixture in an aqueous solution. Thus, the browning reaction is a chemical reaction. There is no description about such a reaction in AGA et al.

Needless to say, the product of the browning reaction is chemically different from a mixture of sugar and protein.

While the Official Action points out that the extract of AGA et al. inhibits the growth of *Helicobacter pylori*, the active ingredient of claim 1 of the present application is to inhibit the adhesion of *Helicobacter pylori*.

Since the invention of claim 1 (and the remaining claims) is neither described nor suggested by AGA et al., there is unity of invention.

Accordingly, withdrawal of the Election of Species Requirement and favorable action on the merits is now requested.

Respectfully submitted,

Shigeru HIRAMOTO et al.

THE COMMISSIONER IS AUTHORIZED
TO MAKE ANY PAYMENT FROM THE
FUND FOR THIS PATENT TO DEPOSIT
ACCOUNT NO. 20-0075

By: Matthew M. Jacob

Matthew M. Jacob

Registration No. 25,154

Attorney for Applicants

MJ/kes
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
February 7, 2006